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FISH & ASSOCIATES, PC ROBERT D. FISH 2603 Main Street Suite 1000 Irvine, CA 92614-6232			NGUYEN, SON T	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/559,860
Filing Date: December 06, 2005
Appellant(s): NILFUROSHAN, ALI

Robert D. Fish
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/9/10 appealing from the Office action mailed 9/14/09.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims pending: 61-68 and 70-75.

Claims rejected: 61-68 and 70-75.

Claims cancelled: 1-60 and 69.

Claims on appeal: 61-68 and 70-75.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office

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action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

DE20021260U1	Uhr	3-2001
JP410113088A	Taudauchi et al.	5-1998
GB2374535A	Wilson	10-2002
233275	Osborn	10-1880
5271211	Newman	12-1993
6443101	Fazio	9-2002
5537954	Beeghly et al.	7-1996
DE4140507A	Schulte	4-1993
2003/0061790A1	Longtin	4-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61,63,67,70,72-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr (DE20021260U1) in view of Taudauchi et al. (JP410113088A), Wilson (GB2374535A) and Osborn (233275).

For claim 61, Uhr teaches a temperature altering system, comprising: a blanket sized and dimensioned to drape over a horse; first and second pockets disposed on an underside of the blanket, each of which has a cavity that includes a removable temperature altering device. However, Uhr is silent about each pocket of which is freely positionable about the blanket using hook and loop fasteners; wherein the first pocket has a first size and the second pocket has a second size that is different from the first size; and a flap coupled to the blanket, wherein the flap includes another pocket positioned to deliver a temperature altering regimen to a stifle joint of the horse.

Taudauchi et al. teach a temperature altering system, comprising: a removable temperature altering device 21, and each of which is freely positionable about the blanket using hook and loop fasteners 32. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a removable temperature altering device, and each of which is freely positionable about the blanket using hook and loop fasteners as taught by Taudauchi et al. in place of the preferred removable temperature altering device of Uhr in order to allow the user to move the altering device in various different locations as desired.

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Wilson teaches a temperature altering system comprising a first pocket (either ref. 1 or ref. 2) having a first size and a second pocket (either ref. 1 or ref. 2) having a second size that is different from the first size (see also Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ different size pockets as taught by Wilson in the system of Uhr in order to accommodate different sizes of the temperature altering device for different coverage area on the animal.

Osborn teaches a horse blanket comprising a leg flap (where ref. G is located at in fig. 1) being coupled to a rear portion of the blanket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a leg flap as taught by Osborn in the blanket of Uhr in order to further secure the blanket on the horse.

Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about wherein the flap includes another pocket positioned to deliver a temperature altering regimen to a stifle joint of the horse. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include an additional pocket in the flap of Uhr as modified by Taudauchi et al., Wilson and Osborn, in order to provide therapy to the leg/join area as needed. Note that it is notoriously well known to provide hot/cold pack anywhere on the body of an animal, depending on where the animal is hurting.

For claim 63, Uhr as modified by Taudauchi et al., Wilson and Osborn (emphasis on Uhr) further teaches wherein the first pocket has a flap 5 disposed to assist in

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keeping a corresponding one of the temperature altering devices within a cavity of the first pocket.

For claim 67, Uhr as modified by Taudauchi et al., Wilson and Osborn (emphasis on Uhr) further teaches wherein the pockets mate with a top side of the blanket (see detailed description, the pockets can be arranged on the inside or outside of the blanket).

For claim 70, Uhr as modified by Taudauchi et al., Wilson and Osborn (emphasis on Uhr) is silent about wherein the blanket further comprises a leg flap coupled to a rear portion of the blanket, and including an additional pocket.

In addition to the above, Osborn teaches a horse blanket comprising a leg flap (where refs. G & n are located at in fig. 1) being coupled to a rear portion of the blanket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a leg flap as taught by Osborn in the blanket of Uhr as modified by Taudauchi et al. and Wilson in order to further secure the blanket on the horse.

Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about an additional pocket in the flap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an additional pocket in the flap of Uhr as modified by Taudauchi et al., Wilson and Osborn, depending on if the animal needs the temperature treatment in the leg area or not.

For claim 72, Uhr as modified by Taudauchi et al., Wilson and Osborn (emphasis on Uhr) further teaches the blanket further comprises a front end and a rear end (see

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fig. 1, self explanatory), wherein the front end includes a cut away portion (the curved section in the neck area of the blanket in fig. 1 of Uhr) that rests just above the withers region of the horse, wherein the rear end of the blanket covers a horse's hindquarter region (see fig.1 of Uhr, self explanatory).

For claim 73, Uhr as modified by Taudauchi et al., Wilson and Osborn further teaches wherein the first size and dimension of the first pocket is configured to contact the horse's spinal muscles. Note that the pockets of Uhr as modified by Wilson can be or are configured to contact the spinal muscles (see fig. 1 of Uhr and fig. 1 of Wilson for placement and size of the pockets covering the spinal muscles running up/down along the spinal cord).

For claim 74, Uhr as modified by Taudauchi et al., Wilson and Osborn further teaches wherein the second size and dimension of the second pocket is configured to contact at least one of the horse's shoulder and hip muscles. Note that the pockets of Uhr as modified by Wilson can be or are configured to contact the shoulder and hip muscles (see fig. 1 of Uhr and fig. 1 of Wilson for placement and size of the pockets covering the shoulder and hip muscles).

For claim 75, Uhr as modified by Taudauchi et al., Wilson and Osborn (emphasis on Uhr) further teaches wherein the blanket further comprises a row of fixed pockets positioned to deliver the temperature altering regimen to a horse's spinal muscles (see fig. 1 of Uhr).

Claims 62,66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al., Wilson and Osborn as applied to claim 61 above, and further in view of Newman (5271211).

For claim 62, Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about wherein the underside of the blanket includes a wicking material.

Newman teaches an animal cover 24 which includes a wicking material on an underside of the cover (col. 6, lines 25-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a wicking material as taught by Newman on the underside of the blanket of Uhr as modified by Taudauchi et al., Wilson and Osborn in order to promote evaporation of perspiration away from the body of the animal (col. 6, lines 25-34 of Newman).

For claim 66, in addition to the above, Newman also teaches a temperature reflective material on the top panel 100 of the cover 24 (col. 6, lines 25-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a reflective material as taught by Newman on a side adjacent the blanket of Uhr as modified by Taudauchi et al., Wilson and Osborn in order to promote heat or sun reflectance (col. 6, lines 35-36 of Newman)

Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al., Wilson and Osborn as applied to claim 61 above, and further in view of Fazio (6443101).

Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about wherein the first pocket has a zipper disposed to assist in keeping a corresponding one of the temperature altering devices within a cavity of the first pocket.

Fazio teaches an animal cover including a pocket 80 with zipper to close the opening 82 of the pocket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a zipper as taught by Fazio on the pocket of Uhr as modified by Taudauchi et al., Wilson and Osborn in order to allow a user to open and close the pocket so that the temperature altering device can be removed or retained in the pockets.

Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al., Wilson and Osborn as applied to claim 61 above, and further in view of Beeghly et al. (5537954).

Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about wherein the first pocket has a button disposed to assist in keeping a corresponding one of the temperature altering devices within a cavity of the first pocket.

Beeghly et al. teach an animal cover having a pocket with a button 36 disposed to assist in keeping a corresponding one of the temperature altering devices within a cavity of the first pocket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a button as taught by Beeghly et al. on the pocket of Uhr as modified by Taudauchi et al., Wilson and Osborn in order to allow a user to open and close the pocket so that the temperature altering device can be removed or retained in the pockets.

Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al., Wilson and Osborn as applied to claim 61 above, and further in view of Schulte (DE4140507A).

Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about the temperature altering device is a series of electrically controlled heating elements.

Schulte teaches a temperature altering system comprising a series of electrically controlled heating elements 2 that can be controlled by using a thermostat 3 and a switch 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a series of electrically controlled heating elements as taught by Schulte as the preferred temperature altering device in the blanket of Uhr as modified by Taudauchi et al., Wilson and Osborn in order to allow the user to control the temperature of the heating elements by using the thermostat and the switch.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al., Wilson and Osborn as applied to claim 61 above, and further in view of Longtin (2003/0061790A1).

Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about wherein the blanket further comprises a detachable neck protrusion, wherein the protrusion includes an additional pocket.

Longtin teaches an animal cover comprising a detachable neck protrusion 14. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a detachable neck protrusion as taught by Longtin in the blanket of

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Uhr as modified by Taudauchi et al., Wilson and Osborn in order to cover the neck area of the animal.

Uhr as modified by Taudauchi et al., Wilson, Osborn and Longtin is silent about an additional pocket in the neck protrusion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an additional pocket in the neck protrusion of Uhr as modified by Taudauchi et al., Wilson, Osborn and Longtin, depending on if the animal needs the temperature treatment in the neck area or not.

(10) Response to Argument

(1) Rejection Of Claims 61,63,67,70 And 72-75 Under 35 U.S.C. 103(a) As Being Obvious Over Uhr In View Of Taudauchi Et Al., Wilson And Osborn

Appellant argued that the real question in this case is whether one of ordinary skill in the art, knowing of a horse blanket having fixed pockets like Uhr's, would be motivated to modify Uhr's solution to heat or cool an area of a horse by using other solutions in the art that address the same problem: (1) freely positionable pockets of a horse harness taught by Tadauchi; and (2) differently sized fixed pockets taught by Wilson. A person of ordinary skill in the art would contemplate heating or cooling a specific target area of horse by either (1) selecting one of the many fixed pockets for the desired target area (e.g., Wilson), or (2) placing some of the freely positionable pockets having the same size at the target area (e.g., Tadauchi), but would have no motivation to utilize both solutions.

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Clearly from the rejection above, Uhr teaches a temperature altering system, comprising: a blanket sized and dimensioned to drape over a horse; first and second pockets disposed on an underside of the blanket, each of which has a cavity that includes a removable temperature altering device. However, Uhr is silent about each pocket of which is freely positionable about the blanket using hook and loop fasteners; wherein the first pocket has a first size and the second pocket has a second size that is different from the first size; and a flap coupled to the blanket, wherein the flap includes another pocket positioned to deliver a temperature altering regimen to a stifle joint of the horse.

Taudauchi et al. teach a temperature altering system, comprising: a removable temperature altering device 21, and each of which is freely positionable about the blanket using hook and loop fasteners 32. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a removable temperature altering device, and each of which is freely positionable about the blanket using hook and loop fasteners as taught by Taudauchi et al. in place of the preferred removable temperature altering device of Uhr in order to allow the user to move the altering device in various different locations as desired.

Wilson teaches a temperature altering system comprising a first pocket (either ref. 1 or ref. 2) having a first size and a second pocket (either ref. 1 or ref. 2) having a second size that is different from the first size (see also Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ different size pockets as taught by Wilson in the system of Uhr in order to

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accommodate different sizes of the temperature altering device for different coverage area on the animal.

Thus, the combination of Uhr as modified by Taudauchi et al. and Wilson teaches (1) selecting one of the many fixed pockets for the desired target area (e.g., Wilson), or (2) placing some of the freely positionable pockets having the same size at the target area (Taudauchi).

(2) Rejection of claims 62 and 66 under 35 U.S.C. 103(a) as being obvious over Uhr in view of Taudauchi et al. Wilson, Osborn and Newman

Appellant argued that as claims 62 and 66 are dependent on claim 61, the same arguments and considerations as provided above under (1) apply and are not reiterated here.

The response is the same as stated above.

(3) Rejection of claim 64 under 35 U.S.C. 103(a) as being obvious over Uhr in view of Taudauchi et al. Wilson, Osborn and Fazio.

Appellant argued that as claim 64 is dependent on claim 61, the same arguments and considerations as provided above under (1) apply and are not reiterated here.

The response is the same as stated above.

(4) Rejection of claim 65 under 35 U.S.C. 103(a) as being obvious over Uhr in view of Taudauchi et al. Wilson, Osborn and Beeghly et al.

Appellant argued that as claim 65 is dependent on claim 61, the same arguments and considerations as provided above under (1) apply and are not reiterated here.

The response is the same as stated above.

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(5) Rejection of claim 68 under 35 U.S.C. 103(a) as being obvious over Uhr in view of Taudauchi et al. Wilson, Osborn and Schulte

Appellant argued that as claim 68 is dependent on claim 61, the same arguments and considerations as provided above under (1) apply and are not reiterated here.

The response is the same as stated above.

(6) Rejection of claim 71 under 35 U.S.C. 103(a) as being obvious over Uhr in view of Taudauchi et al. Wilson, Osborn and Longtin.

Appellant argued that as claim 71 is dependent on claim 61, the same arguments and considerations as provided above under (1) apply and are not reiterated here.

The response is the same as stated above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Son T. Nguyen/
Primary Examiner, Art Unit 3643

Conferees:

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